

**BDAC Assurances Work Group
Meeting Summary
June 19, 1997**

The BDAC Assurances Work Group held its eighth meeting on Thursday, June 19, 1997 from 9 am to 12 noon. This was the first Work Group meeting following the May 15, 1997 Assurances Workshop.

BDAC members of the Work Group present were:

Hap Dunning, Chair Rosemary Kamei

CALFED Staff/Consultants present were:

Mary Scoonover Dave Fullerton Michael Heaton Michael Fainter

Invited Participants were:

George Basye

Other participants included:

Earl Nelson	Doug Wallam	Don Wagenet	Jim Martin
Tom Zuckerman	Linda Cole	Anthony Barkett	Bill Dunn
Debra Crowe	Dan Craig	Jim Moore	John S. Mills
Walter Kornichuk	Jim Chatigny	Amy Fowler	Rick Soehren
Elizabeth Patterson	Tiki Baron	William R. Johnston	

Work Group Chair Hap Dunning opened the meeting at 9:10 am. Meeting participants introduced themselves.

Hap Dunning noted that recent meetings of the Work Group have included reports of outside efforts to address assurance issues and invited Amy Fowler and Randall Neudeck to report on recent meetings between agricultural and urban water interests. Amy Fowler summarized that the two caucuses had moved beyond their early focus upon what management structure would best implement the ecosystem restoration program and had begun drafting white papers that focused upon specific issues. Discussions included what foundation of agreements would need to be in place to assure the preferred alternative.

Mary Scoonover asked if other stakeholders had been involved in discussions of assurances outside of the Work Group, inviting them to summarize any other external

discussions. None of the participants had any news to report.

There were no additions or corrections to the April 24, 1997 meeting summary, though Hap Dunning noted that the list of participants was incomplete.

Mary Scoonover provided a summary of the May 15 Assurances Workshop. She noted that the Workshop had a relatively low turnout, with workshop participants being limited to those who normally participate in the Assurance Work Group meetings. She suggested that the Work Group needed to improve its outreach efforts to involve more stakeholders in the Assurances effort.

She invited participants who had not attended the May Assurances Workshop to obtain a copy of the Assurances packet, since it provided a good background of assurances issues as well as the Work Group's efforts.

She summarized that the workshop packet delineated 5 individual assurance alternatives. Each alternative was delineated by a different management structure coupled with a theme of assurance tools.

She summarized the more common comments received from workshop participants. There was general agreement that:

- stakeholders should have meaningful participation in the implementation of the Bay-Delta solution, participating in decision-making rather than being confined to an advisory role.
- a reasonable range of management structure options had been described/delineated and that focus should now be placed on other assurance options
- proposing a new management entity to implement the Bay-Delta solution would be difficult to achieve.

There was general concern that:

- phased implementation had yet to receive adequate consideration, so that actions proposed for later implementation would be assured
- the Program was using terms inconsistently in the various Work Groups, complicating understanding

Mary Scoonover explained that the five different Assurance Alternatives presented at the May Workshop were structured around different types of management entities complemented by a set of assurance tools. The five assurance alternatives were relatively arbitrary compilations of management entities and tools based on a particular theme. The current version of the assurance discussion paper is directed at assuring the common program components (ecosystem restoration, water supply reliability, water quality, and levee system integrity), and the linkages between the components. The paper describes five different possible management entities, and then provides a list of assurance options for each of the common program components. She summarized that the Work Group is not evaluating five separate assurance alternatives; rather, the Work Group should consider the assurance options that would serve as building blocks for an assurance alternative.

Linda Cole articulated three concerns about assurances expressed by Sacramento Valley interests: (1) that all agencies involved in the Bay-Delta Program had some vested interest that conflicted with assurances for source counties; (2) that paper assurances would not be adequate if they ran counter to agency mandates or operations; (3) that discussions of water supply reliability has focused upon Delta export interests and not addressed source counties.

Mary Scoonover asked if source county interests could propose any agencies as potential candidates for implementing the Bay-Delta solution. Linda Cole replied that some had suggested DWR as an implementation agency since it has a Groundwater Branch, but most believe that a separate entity was required that was not tied to water transfers/operations. Hap Dunning asked if veto authority over transfers would assure source county interests. Linda Cole replied that vetoes would not be effective since source counties do not have the resources necessary to handle such an administrative task, and that such local authority lacked a big-picture perspective.

John Mills reported that he had come from an RCRC meeting at which these issues had been discussed. Consensus at the meeting seemed to indicate that local Boards of Supervisors should control local resources and that such management would be better than control by state or federal agencies.

Hap Dunning opened general discussion by focusing on the approach used by the Assurances Work Group. He felt that it was time to move beyond compiling lists of assurance options and to begin crafting an assurance alternative based upon the case study (Alternative 3b). Tom Zuckerman agreed, arguing that there was too much back-and-forth with the other BDAC Work Groups. He urged the Work Group to begin negotiating. Both felt that crafting an assurance package for a particular case study would highlight the assurance difficulties, thereby providing good practice for the process the Work Group would employ once the preferred alternative was identified.

Mary Scoonover felt that the Work Group should examine the list of assurance options presented in the paper written by staff to determine which options were feasible, which options were promising, and which options needed refinement. By eliminating infeasible options, the Work Group would begin isolating the building blocks that could be used to craft an assurance alternative. The options that garnered broad agreement could serve as the foundation of an assurance alternative to accompany the Draft EIR/S in November. For assurance issues that did not enjoy general consensus, the Work Group could narrow debate to a range of three options, complete with the rationale for each, for future decision makers. Bill Johnston agreed, reasoning that it was not possible to craft a specific assurances package for the Draft EIR/S since the preferred alternative has yet to be selected. He also felt that existing water institutions would be reluctant to relinquish their power, so it was important to delineate those areas where the water institutions can agree. John Mills also agreed, stating that legislators rarely convert an agency plan into legislation without making changes; by providing a range of options, the Program could help frame the changes that legislators might make. He also pointed out that providing three assurance options mimicked the EIR/S process of evaluating a reasonable range of alternatives.

Amy Fowler asked if the assurance package to be included in the Draft EIR/S would be synchronized to the program components or if it would be a standalone package.

Mary Scoonover responded that the assurance package accompanying the November Draft EIR/S would be preliminary, since the Work Group could not produce a single package of assurances that all interests would agree upon. The goal was to anchor those assurance options enjoying broad agreement and to provide a range of reasonable options for those assurance needs lacking consensus.

There was a question regarding who would choose among the three options that the Work Group provided. Mary explained that the Assurances Work Group would advise BDAC, which would in turn make a recommendation to the CALFED agencies, but she also cautioned that decision-makers may not follow the recommendation, in which case the supporting rationale for each option would become important. Hap Dunning also reminded the Work Group that BDAC and its Work Groups are advisory, that they make recommendations rather than decisions.

Elizabeth Patterson argued that the assurance package would have to be part of the preferred alternative for stakeholders to evaluate it. Randall Neudeck cautioned that providing a range of assurance alternatives rather than making a recommendation could invite bad press following the release of the Draft EIR/S.

The Work Group then focused its attention upon the paper prepared by staff for the meeting. Michael Heaton introduced the paper, summarizing that the first half of the document presented a range of five alternatives for management entities to implement the preferred alternative, and that these were largely unchanged from the May 15 Assurances Workshop. He

focused the Work Group's attention to a list of items that a foundational agreement might include (page 10), soliciting feedback from meeting participants.

John Mills suggested that the concept of staging should be added to the list. He explained that no interest group should receive all of its benefits in the early implementation stages, for their participation in later phases of implementation might erode. Such staging would be necessary to entice stakeholders to sign such agreements. He also suggested that agreements be structured so that signatories must perform some deliberate action to breach the agreement rather than being allowed to lapse into noncompliance through inaction.

Hap Dunning felt that item 6 on the list (description of how water from new facilities will be allocated) as well as item 9 (detail on funding, including revenue sources and cost allocations) ventured beyond the scope of the assurances package. He felt that the preferred alternative as a whole would address these issues.

Dave Fullerton explained that while an agreement may not allocate water to particular uses, it could establish the mechanisms to be used to assure such allocations of water and cost. Amy Fowler suggested that mechanisms of recourse be part of an agreement to handle situations when a party to the agreement fails to meet its obligations.

The Work Group then turned its attention to Habitat Conservation Plans (HCPs) as a potential assurance tool. Randall Neudeck said that HCPs are variable, that each is unique. Mary Scoonover alerted the Work Group to a guidebook for creating HCPs which specifies the necessary elements of an HCP as well as discretionary elements. Tiki Baron of the Fish and Wildlife Service agreed that HCPs are variable, but she also clarified that there are absolute necessary ingredients for an HCP that have to be met.

Hap Dunning suggested that CALFED staff work with FWS personnel to develop a preliminary HCP by the next meeting of the Assurances Work Group. He also asked if there were any HCPs that included detailed remedial options to handle situations when signatories failed to meet their obligations. Tiki Baron did not know of any such HCPs.

George Basye felt that water supply reliability needed to be defined for the various stakeholder interests, including: area-of-origin supply, Delta export supply, and environmental supply reliability. Michael Heaton responded by delineating two types of assurances: (1) assurances that the preferred alternative would be implemented; (2) assurances that individual stakeholder groups would not suffer adverse impacts. He suggested that the Work Group's goal is to assure implementation of the Program's preferred alternative, and that assurances for individual stakeholder groups would be pursued in other areas of the Program. Hap Dunning asked if it was time for the Work Group to develop such assurances for individual stakeholder groups. Linda Cole expressed concern that important issues were falling between the cracks

rather than being pursued by other parts of the program; pointing to the Water Use Efficiency Work Group's deferral of water transfers. Other participants expressed similar concerns about ecosystem monitoring. Rick Soehren informed the Assurances Work Group that a new BDAC Water Transfers Work Group had been formed to specifically address the issue of water transfers, and that the first meeting would be announced in the next 2 weeks. Elizabeth Patterson suggested that CALFED staff develop a sample agreement and cross reference it to other parts of the Program to highlight which assurance issues are being addressed adequately outside of the Assurances Work Group.

George Basye warned against the ineffectualness of paper remedies; the Work Group needed to focus upon practical remedies. It was suggested that a well-crafted program could prevent the necessity of extreme remedies. Dave Fullerton suggested testing an HCP against extreme scenarios (drought conditions, high unemployment rates, sea level rise, etc.) to test the durability of an assurance package in times of crisis.

Hap Dunning asked which of the five management structures would be appropriate if the Program decided to pursue an HCP. Tom Zuckerman suggested using the Delta Protection Commission and the CALFED Operations groups as models of coordination between agencies, supplemented by local agency input. Elizabeth Patterson suggested analyzing Oregon watershed councils as well as the State Board's Watershed Initiative as models. John Mills felt that there are problems with agency coordination now, and that new facilities would mean that the existing arrangement of agency coordination would not be sufficient, suggesting the need for a new management entity. Mary Scoonover emphasized that though federal agencies considered a completely new management agency to be a tougher sell, all management structure options were still on the table.

Tom Zuckerman and John Mills cited the Ecosystem Restoration Program Plan's (ERPP) concept of ecological zones as an idea for local management of an HCP.

Before adjourning, Mary Scoonover alerted the Work Group to the assurances report that would accompany the Draft EIR/S. The report will be subdivided into 2 parts. The first part of the report will chronicle the process used by the Work Group to craft the assurances package. A draft of this part will be available for the Work Group's meeting on September 9. The second part of the report will include the assurances package forwarded by the Work Group and will be the focus of continued meetings.

The next Assurances Work Group meeting is scheduled for Wednesday, July 30 from 9 am - 12 noon in the Resources Building. At that meeting, staff will forward tentative dates for future meetings of the Work Group.